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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
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3 SADIS & GOLDBERG, LLP,

4 Plaintiff,

New York, N.Y.

5 v.

14 Civ. 913(LTS)

6 SUMANTA BANERJEE,

7 Defendant.

8 -----x Conference

9 October 23, 2019
12:00 p.m.

10 Before:

11 HON. ONA T. WANG,

12 Magistrate Judge

14 APPEARANCES

16 BOIES, SCHILLER & FLEXNER, LLP
17 Attorneys for Plaintiff
BY: BEN HUTMAN

18 SUMANTA BANERJEE
19 Pro Se Defendant

21 ALSO PRESENT:

22 MS. AKSHITA BANERJEE

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1 (Case called)

2 THE DEPUTY CLERK: Counsel, please state your name.

3 MR. HUTMAN: My name is Ben Hutman. I represent
4 Sadis & Goldberg LLP.

5 THE COURT: Okay.

6 MR. BANERJEE: And I'm Sumanta Banerjee.

7 THE COURT: Good afternoon.

8 I apologize for the delay. it somehow just didn't
9 make it on to our chambers calendar, and it is actually my
10 fault and an administrative oversight on my part. But
11 considering how many conferences we actually do have, this is
12 one that we have missed, first time in a long, long time.

13 All right. So we are here to talk a little bit about
14 planning for the evidentiary hearing. I think, so, from our
15 last phone conference at the end of last month, I guess there
16 hasn't been any changes, for example, in any of the
17 determinations of the witnesses, right? So Mr. Banerjee and
18 your wife are the two witnesses in this case, right, for the
19 evidentiary hearing?

20 MR. BANERJEE: Yes.

21 THE COURT: No more witnesses than that, Mr. Hutman?

22 MR. HUTMAN: None from plaintiff.

23 THE COURT: Any witnesses for defendant?

24 MRS. BANERJEE: No, your Honor.

25 MR. BANERJEE: No, your Honor.

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1 THE COURT: Then I understand there has been an
2 exchange of exhibit, a draft exhibit list. How are we doing on
3 that? I understand it doesn't include the documents from H&R
4 Block, but at least you got started on it. Have you sent it
5 back to --

6 MR. BANERJEE: Yes, I have sent it back.

7 MR. HUTMAN: Yes. We received it last night.

8 THE COURT: Okay. So do you anticipate this exhibit
9 list basically being complete except as to the H&R Block
10 documents?

11 MR. HUTMAN: From plaintiff's perspective, yes. There
12 were some questions that I had about some of the documents that
13 were put on the exhibit list by defendant just as to what they
14 were because I couldn't quite tell from the descriptions, but
15 that's something I should be able to work out with the
16 defendant to get some clarification and, if necessary, may have
17 to put in some rebuttal.

18 THE COURT: All right. Continue working with
19 yourselves on that.

20 So I should have talked about this before. As to the
21 authorization for the documents from H&R Block, we now have the
22 documents you need, Mr. Hutman?

23 MR. HUTMAN: Yes, and I sent them to H&R Block.

24 THE COURT: When do you anticipate -- I know it is
25 hard, because they are not a party, but what's your assessment

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1 on when you might be getting those documents?

2 MR. HUTMAN: I don't -- I really don't know. The
3 initial people I spoke with at H&R Block seem very agreeable,
4 but then counsel got involved and it started becoming much more
5 difficult. So it's hard for me to say. I am going to reach
6 out to them today to see if I can get some kind of update if
7 they can give me a timeline.

8 THE COURT: One of the things I'm a little bit
9 concerned about is whether you will get those documents in time
10 for you to review, provide them to Mr. Banerjee, and then have
11 them ready for an evidentiary hearing that's currently
12 scheduled on the 18th of November. That said, if you think
13 that there is going to be an issue with that, and I kind of see
14 that as well, I don't know, do you want to try to reschedule
15 the hearing, push it back a little bit, or do you want to wait
16 and see how long it takes to get the documents?

17 MR. HUTMAN: From my perspective, it is preferable to
18 push it back in advance --

19 THE COURT: Okay.

20 MR. HUTMAN: -- without waiting to see at the last
21 minute, because it is easier for me to schedule things that
22 way. I can't speak for the defendants.

23 THE COURT: Okay. So why don't we take it off. I
24 actually have it on the calendar for the 19th. Let's take it
25 off of November 19. So what I will do is, I will have the

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1 parties meet and confer and write a letter whether there is a
2 date that -- whether there is a date during the week of
3 December 16 that may work for an evidentiary hearing. I also
4 have time the week of the 9th, but I just don't want to put
5 you -- I would rather not have to move the date again if it
6 turns out it takes a while for you to get the documents.

7 If we can't get a date on the week of December 16,
8 then we are looking at -- the next time after that would be the
9 week of January 6. So why don't you take -- why don't you meet
10 and confer and see if you can agree on a date, a half day, for
11 either of those weeks. And just to be safe with my calendar,
12 why don't you propose two or three dates that the parties can
13 make it and then that way I will look at it on my calendar as
14 well.

15 Mr. Banerjee?

16 MR. BANERJEE: That's fine.

17 Would your Honor mind giving us the dates for the week
18 of the 9th and the 16th that work for your calendar?

19 THE COURT: No. You talk to each other and then --
20 because right now I have some time. That's why I said propose
21 two to three dates. I am hoping that if you propose two to
22 three dates, then that shouldn't be a problem. And to be
23 clear, you are looking at the week of December 16 and the week
24 of January 6. Don't look at the week of December 9 because I
25 am just concerned that we may end up having to push it if H&R

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1 Block produces documents too late. All right?

2 MRS. BANERJEE: So the week of December 16 --

3 THE COURT: The week of December 16, 2019, and the
4 week of January 6, 2020.

5 MRS. BANERJEE: Thank you.

6 THE COURT: Propose two to three dates after meeting
7 and conferring for dates that work with the parties. All
8 right? And then deadline for depo designations and exhibit
9 lists, since we are going to push it off a little bit, I'm less
10 concerned about setting a hard deadline for that now. Why
11 don't we have you -- why don't we have the parties file a joint
12 status letter, since we are already pushing into at least
13 December, why don't we have you file a joint status letter by
14 November 15.

15 MR. HUTMAN: Your Honor, I'm going to be on trial
16 through the 15th. So if we could have the joint status letter
17 the next week?

18 THE COURT: Do you want the week before or the week
19 after?

20 MR. HUTMAN: The week after.

21 THE COURT: How about November -- how about we use
22 November 19, because that would have been your evidentiary
23 hearing date. Joint status letter on the 19th as to the
24 production of the H&R Block documents, where you are in getting
25 them, providing all of them to the Banerjees, and whether any

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1 of them will be included on the exhibit list. That's number
2 one.

3 Number two is whether the exhibit list is final and,
4 if not, when it will be final; and then, also, deposition
5 designations and if they are final, propose a date by which you
6 will submit them or let me know if there are any issues in
7 terms of deposition designations. On the last call I think we
8 had talked about highlighting, using different colors, which
9 portions of the depositions you would all want. Some of this
10 may depend on when you get the H&R Block documents, if that
11 adds more depo designations. But to the extent you are able
12 to, you should start thinking about that now and start working
13 on it now. Okay?

14 MR. HUTMAN: Okay, your Honor.

15 THE COURT: All right. Anything else?

16 MR. HUTMAN: The only question that I had was with
17 respect to that it would be scheduled as a half-day hearing,
18 and I am concerned about our ability to get it all done in half
19 a day. And I am not quite sure your Honor's procedures with
20 respect to this hearing, but if it is going to work where we
21 have to submit the documents into evidence as we go, it
22 will --

23 THE COURT: No. Essentially you are going to treat
24 this like a bench trial. So the depo designations will be
25 provided well in advance.

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1 The exhibits, I expect you should be able to agree on
2 an exhibit list. We will just admit them all, and then that
3 way we won't have to deal with the procedural issues of laying
4 foundations and submitting them all. Okay? Since most of them
5 are from Mr. Banerjee or affiliated organizations with people
6 that -- I don't see that being a problem, so hopefully that
7 will streamline it a little bit.

8 So we are only talking about two witnesses.

9 MR. HUTMAN: Understood.

10 THE COURT: Okay. So joint status letter due November
11 19.

12 Anything else? Other questions or anything like that?

13 MR. HUTMAN: None from plaintiff.

14 MR. BANERJEE: I just have a quick question, your
15 Honor.

16 Is there a pretrial brief or anything or posttrial
17 brief that we should also do on this? Because there is lots of
18 case law and domicile versus --

19 THE COURT: Since you are representing yourself -- you
20 know what? Talk to each other, and then in the joint status
21 letter on the 19th, think about how you would like this to --
22 how you would like to sort of get this done. Because I agree
23 that it would be helpful to have the case law that's at issue,
24 relevant cases, undisputed facts, for example, if there are any
25 to be presented in, say, an affidavit or joint stipulated

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1 facts, because the more that we can do before the hearing
2 itself, the easier it will be. Okay?

3 MR. BANERJEE: Yes.

4 THE COURT: So think about whether you would like to
5 do -- I think joint stipulated facts would be good as much as
6 you can. And then in terms of -- like, Mr. Banerjee, if you
7 were represented by counsel, I would say that each side would
8 need to provide its proposed findings of fact and conclusions
9 of law. But since you are proceeding *pro se*, while you are
10 talking about joint stipulated facts and working on your joint
11 status letter, see if there is anything that you can work on
12 jointly; and then, if not, then I will have to take briefs from
13 both sides. But it may not -- depending on what your joint
14 stipulated facts looks like, I might not need it until after
15 the evidentiary hearing. Okay?

16 MR. BANERJEE: Yes. I am perfectly fine doing a
17 joint --

18 THE COURT: Putting the work off until after the
19 hearing in case you don't have to do it?

20 MR. BANERJEE: But I'm perfectly fine doing it, the
21 memorandum of law and all that, so I am comfortable with that.

22 THE COURT: Mr. Hutman, do you have any other
23 questions or comments or thoughts?

24 MR. HUTMAN: No, your Honor.

25 THE COURT: All right. Thank you very much. Thank

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1 you very much for waiting, and again I apologize.

2 So, Mr. Hutman, you are directed to order a copy of
3 the transcript, provide it to Mr. Banerjee, so that way as you
4 are working, and I look forward to reading your letter on the
5 19th.

6 MR. HUTMAN: Thank you very much.

7 MR. BANERJEE: Thank you, your Honor.

8 THE COURT: Thank you. We are adjourned.

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